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April 24, 2020

Via ECF

The Honorable Analisa Torres,
United States District Court for the
Southern District of New York,
500 Pearl Street,
New York, New York 10007-1312.

Re: *Chen-Oster, et al. v. Goldman, Sachs & Co., et ano.*
No. 10 Civ. 6950 (AT) (RWL) (S.D.N.Y.)

Dear Judge Torres:

Defendants object to the National Employment Lawyers Association/New York's ("NELA/NY") request for leave to file an amicus curiae brief (ECF No. 1007) in support of Plaintiffs' Objections (ECF No. 1007) to Judge Lehrburger's March 26, 2020 Order (ECF No. 983). Plaintiffs did not advise Defendants until yesterday afternoon—just seven days before Defendants' responses to Plaintiffs' Objections are due—that NELA/NY would seek leave to file an amicus brief, which NELA/NY then filed over Defendants' objection. NELA/NY's 18-page brief is virtually the same length as the 20-page limit for objections to magistrate judges' rulings in Rule III.D of this Court's Individual Practices.

Respectfully, NELA/NY is not a "friend of the court," but "more a 'friend of the plaintiff.'" *Hartford Fire Ins. Co v. Expeditors Int'l of Wash., Inc.*, 2012 WL 6200958, at *1 n.1 (S.D.N.Y. Dec. 11, 2012) (Forrest, J.) (denying leave to appear as amicus curiae where plaintiff's counsel firm had "close relationship" with board of proposed amicus). For example, Rachel Geman, a partner at Lieff Cabraser Heimann & Bernstein in New York who has worked extensively on this matter, "chairs NELA-NY's amicus committee," and presumably is in a position to direct NELA/NY to file this brief. See Rachel Geman, Lieff Cabraser Heimann & Bernstein, <https://www.lieffcabraser.com/attorneys/rachel-geman/> (last visited Apr. 24, 2020). A number of other counsel for Plaintiffs similarly have roles at NELA/NY,¹ which cannot provide

¹ Co-lead counsel for Plaintiffs—Kelly Dermody, a partner at Lieff Cabraser Heimann & Bernstein, and Adam Klein, a partner at Outten & Golden—are "member[s] of the National Employment Lawyers Association (NELA)" and Klein is a former member of "the Executive Board of . . . NELA/NY from 2000 to 2006" and is "the former co-chair of the Class Action

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“neutral assistance in analyzing the issues” before this Court as a result. *Picard v. Grieff*, 797 F. Supp. 2d 451, 452 (S.D.N.Y. 2011) (Rakoff, J.) (denying leave).

Because Plaintiffs’ and NELA/NY’s briefs collectively represent 38 pages of briefing—in excess of this Court’s presumptive 20-page limit for objections and responses—in the event the Court grants NELA/NY’s request for leave to file its brief, Defendants respectfully request an extension of the page limit for their responses to 35 pages, so that they may fairly respond to the arguments in both briefs. While agreeing that Defendants should have additional pages of briefing to respond to NELA/NY’s brief, Plaintiffs will consent to only an 8-page separate brief. Defendants believe that Plaintiffs’ proposal would (i) burden the Court with multiple briefs, instead of just one brief responding to both Plaintiffs’ Objections and NELA/NY’s brief, and (ii) allow Plaintiffs and their amicus to have 10 pages more briefing than Defendants.

Respectfully,

/s/ Robert J. Giuffra, Jr.

Robert J. Giuffra, Jr.

of Sullivan & Cromwell LLP

Committee of NELA.” *See Jaffe v. Morgan Stanley & Co.*, No. C-06-3903, ECF No. 88 at 41, 119 (N.D. Cal. Oct. 22, 2007). Melissa Lardo Stewart, also an Outten & Golden partner on this matter, is currently NELA/NY’s Secretary. *See Who We Are*, NELA/NY, http://nelany.com/officer_list.php (last visited Apr. 24, 2020).